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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,723	09/30/2003	Yehia El-Ibiary	03RE019	6359

7590 09/29/2004
Alexander M. Gerasimow
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EXAMINER

IP, SHIK LUEN PAUL

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,723

Applicant(s)

EL-IBIARY, YEHA

Examiner

Paul Ip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-67 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/1/04</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Related Applications

1. The specification or the oath/declaration of this or the other application(s) fails to disclose the copending applications 10/201,007 and 10/201,073 as required in 37 CFR § 1.56.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on July 1, 2004 in compliances with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Double Patenting

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

4. Claims 1-67 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-35 of copending Application No. 10/201,073, and claims 1-37 of Application No. 10/201,007. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. For example, claim 1 recites a system comprising an electronic device without the recitation of any essential elements or structure to allow anyone has ordinary skill in the art to be able to read on any figures of the invention. The only recitation of an electronic device with the functional or operable language fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention under 35 U.S.C. 112, second paragraph. The claims are incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. The system recited in the claims cannot be read on any figures of the invention. Furthermore, the recitation of "a system" in the claims fails to define the field of invention. See MPEP § 2172.01.

Claims 40-67 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. For example, claim 41 recites "a program" with a machine-readable medium and a motor estimation module stored on the machine-readable medium. The program comprising a machine-readable medium and a motor estimation module do not make sense and the program cannot be read on any figures of the invention. The claim fails to comply with the "computer programs" guideline according to MPEP 2106:

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Kliman et al (6,262,550), or Ohm et al (6,002,234), or Dowling et al (6,308,140 or 6,236,947 or 6,144,924).

As far as the claims are understood, the claims are given the broadest interpretation. The patent to Kliman et al discloses a system comprising a single load (Load) of an electric motor 16 with electronic devices 12, 14, 18 that is operable to establish estimated values of a plurality of electrical parameters of the electric motor based on electrical input data obtained as shown in figures 2-5 of the electric motor 16.

See Ohm et al figures 1, 10A and 10B for the electric motor 20 and its parameters.

See Dowling et al figure 1 for the electric motor 30 and the electrical parameters.

Citation of Pertinent References

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose motor monitor and control systems according to the input parameters: Dister et al (6,035,265 and 6,449,567), Chambers et al (6,469,469), Thomas et al (6,605,917), Lee (5,998,958), Bowers III et al (5,680,025), Taylor et al (5,569,994 and 5,834,918), Quist et al (6,199,018), Bowers et al (6,529,135 and 5,739,698), Zaremba et al (6,661,194), Duyar et al (6,393,373), Cohen et al (6,591,200), Kendig et al (6,483,319), Cho et al (6,346,810), and Canada et al (6,138,078).

Customer Services Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Ip whose telephone number is (571)-272-1941. The examiner can normally be reached on Monday to Friday from 6:30 a.m. to 3:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin, can be reached on (571)-272-1207. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Paul Ip".

Paul Ip
Primary Examiner
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